

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN**

TONIA MILLER,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:24-cv-00279
	)	
DETECTIVE TIM HURTT,	)	Judge Hon. Jane M Beckering
ROBERT PECK, RUSSELL BELL,	)	
BRIAN HUNTER,	)	Magistrate Hon. Sally J. Berens
and the CITY OF BATTLE CREEK,	)	
a municipal corporation, and the	)	
COUNTY OF KALAMAZOO,	)	
MICHIGAN, a municipal corporation,	)	
all jointly and severally,	)	
	)	
Defendants.	)	

**PLAINTIFF’S REPOSE TO DEFENDANT ROBERT BECK AND  
RUSSELL BELL’S MOTION TO DISMISS PURSUANT TO FEDERAL  
RULE OF CIVIL PROCEDURE 12(b)(6)**

**NOW COMES** the Plaintiff, TONIA MILLER, by and through her attorneys, Erickson & Oppenheimer, and responds to Defendant Robert Beck and Russell Bell’s (“CPS Defendants”) Motion to Dismiss, as follows:

**RESPONSE**

1) On August 23, 2024, Defendants Robert Beck and Russel Bell filed a Motion to Dismiss pursuant to FRCP 12(b)(6). Dkt. 32.

2) On, July 22, 2024, Plaintiff Miller filed a First Amended Complaint, pursuant to Federal Rule of Civil Procedure 15(a)(1)(B), in response to Defendant Battle Creek's filings and this Honorable Court's Order of July 3, 2024. Dkt. 22.

3) The First Amended Complaint put the CPS Defendants on notice of the allegations against them.

4) In CPS Defendants' Brief in Support of their Motion to Dismiss, they raise the Absolute Immunity defense in Sections B1 and B2. Dkt. 33, at 9-12.

5) Because the CPS Defendants correctly state the law as it applies to these defendants for the acts alleged in the First Amended Complaint (Dkt. 23), Plaintiff respectfully requests that this Honorable Court find that the Defendant Peck and Defendant Bell are absolutely immune and grant them the relief requested in their motion, namely dismissal of Counts I-IV against Defendants Peck and Bell with prejudice.

Respectfully submitted,

/s/ Michael Oppenheimer

Erickson & Oppenheimer, Ltd.  
223 W. Jackson, Suite 612  
Chicago, IL 60606  
312-327-3370

**CERTIFICATE OF SERVICE**

Jon Neuleib, a licensed attorney, states that on September 11, 2024, the foregoing Response was served on all attorneys of record via ECF.

/s/ Jon Neuleib

Erickson & Oppenheimer, Ltd.  
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Chicago, IL 60606  
312-327-3370